

Remarks/Arguments

The Objection to Claims 15-19

The Examiner has objected to Claims 15-19 because of minor informalities. More specifically, the Examiner has asserted that Claim 15 recites a feature which lacks a proper antecedent basis, *i.e.*, “said curved microscope arm”. The Examiner further asserted that Claims 16-19 include the same informalities due to their dependency from Claim 15.

Applicants respectfully submit that amended Claim 15 does not include the aforementioned feature, thereby rendering this objection moot. Reconsideration and withdrawal of this objection is courteously requested.

The Rejection of Claims 15-19 under 35 U.S.C. § 112

Claims 15-19 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim subject matter which applicant regards as the invention. Applicants respectfully traverse this rejection and request reconsideration for the following reasons.

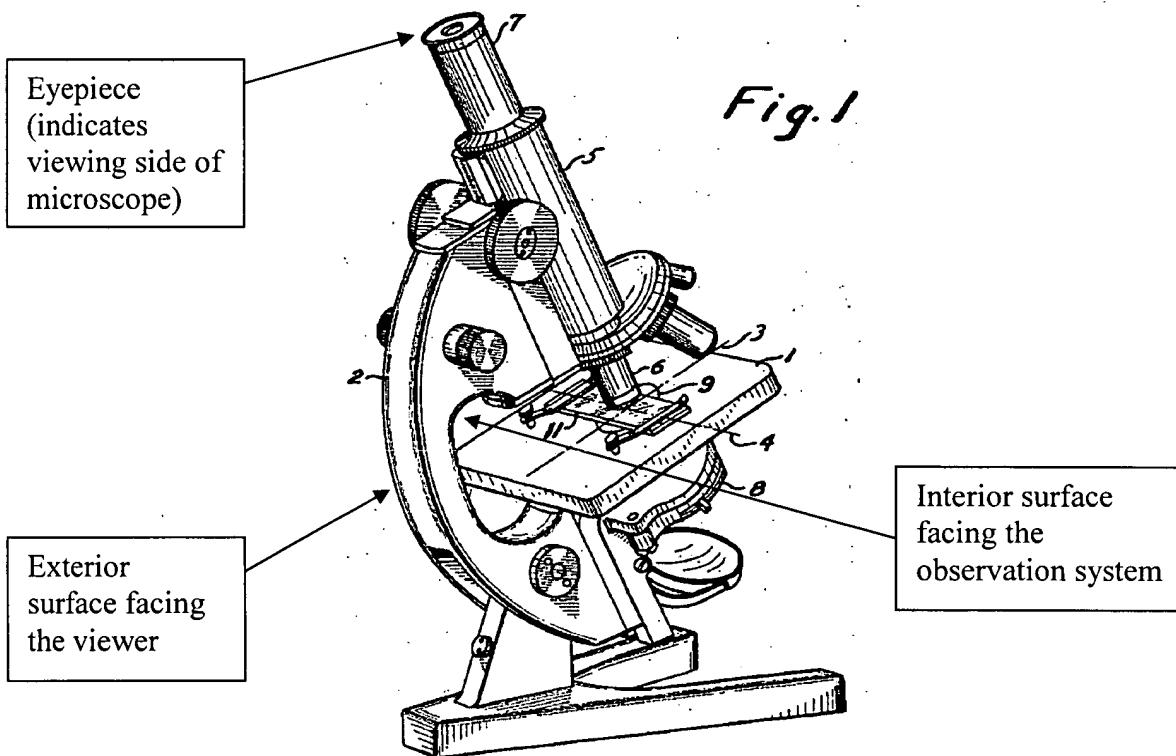
Applicants courteously submit that the amendments to Claims 9 and 15, and the addition of new Claim 28 particularly point out and distinctly claim two embodiments of the instant invention, *i.e.*, wherein the at least one recessed portion is a removable panel (Claim 15) and wherein the at least one recessed portion is integral with the interior surface (Claim 28). Therefore, amended Claim 15 is in condition for allowance, and Claims 16-19 are also in condition for allowance due to their dependency from amended Claim 15.

In view of the foregoing, Applicants respectfully submit that reconsideration and withdrawal of this rejection is appropriate and courteously requested.

The Rejection of Claims 9-12, 14, 20-25 and 27 Under 35 U.S.C. § 103(a)

Claims 9-12, 14, 20-25 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 1,996,141 (*Broadhurst et al.*) in view of United States Patent No. 5,844,714 (*DiResta*) and United States Patent No. 5,556,150 (*Ampel*). Applicants respectfully traverse this rejection and request reconsideration for the following reasons.

Applicants courteously submit that *Broadhurst et al.* and *DiResta*, alone or in combination, fail to teach a microscope having an interior surface which is proximate a user of the microscope and an exterior surface opposite the interior surface. By Examiner's own admission, *Broadhurst et al.* teach a microscope with an arcuate arm having "an interior surface facing the observation system and an exterior surface facing the viewer." (See Office Action dated September 29, 2006, Page 4, Paragraph 7). In like fashion, the Examiner has acknowledged that *DiResta* teaches an arcuate microscope arm having "an interior surface facing the stage (30) and an exterior surface facing a viewer." (See Office Action dated September 29, 2006, Page 5, Paragraph 7). Additionally, *Ampel*, being directed at a multipurpose probe, fails to teach a microscope having any interior or exterior surfaces. Figures from *Broadhurst et al.* and *DiResta* are included herebelow to further describe their respective arrangements relative to a user of such microscopes.



The *Broadhurst et al.* microscope

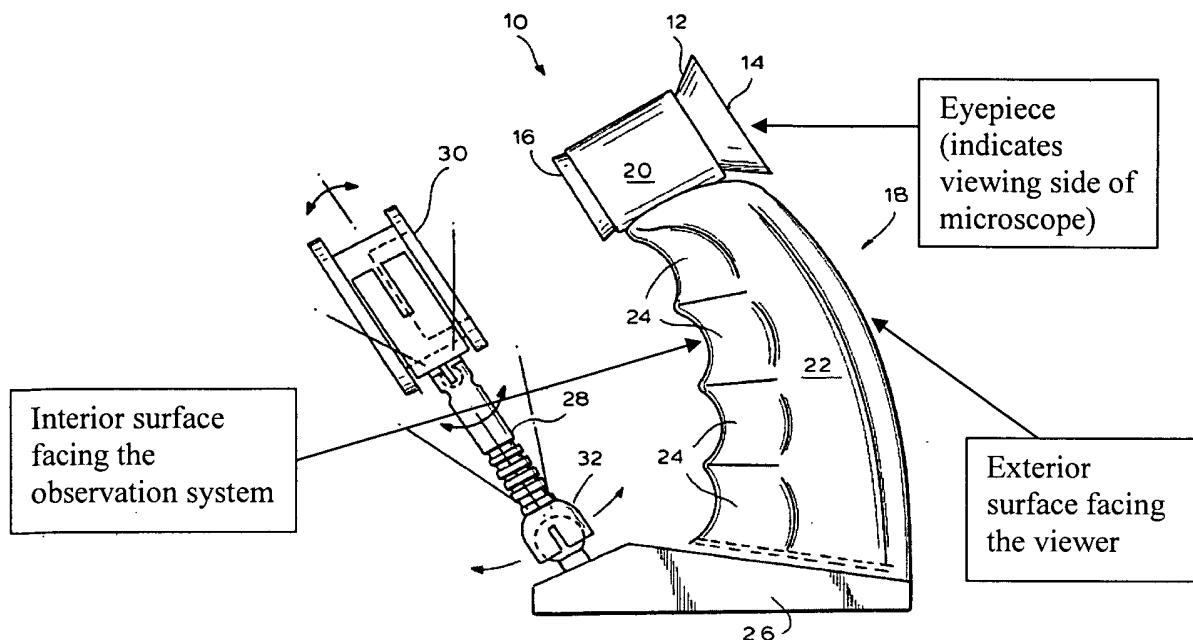


FIG. 2

The *DiResta* microscope

Contrarily, the embodiment of Applicants' invention recited in Claim 9 comprises an interior surface which "is intended to refer to that side of the microscope arm facing and closest an individual standing in front of the microscope so as to peer through the eyepieces," and an exterior surface which "is intended to refer to that side of the microscope arm facing away and furthest from the individual standing in front of the microscope as if to peer through the eyepieces." (See Paragraph [0018] of the instant application). A figure from the instant application is included herebelow to further describe its arrangements relative to a user of such a microscope.

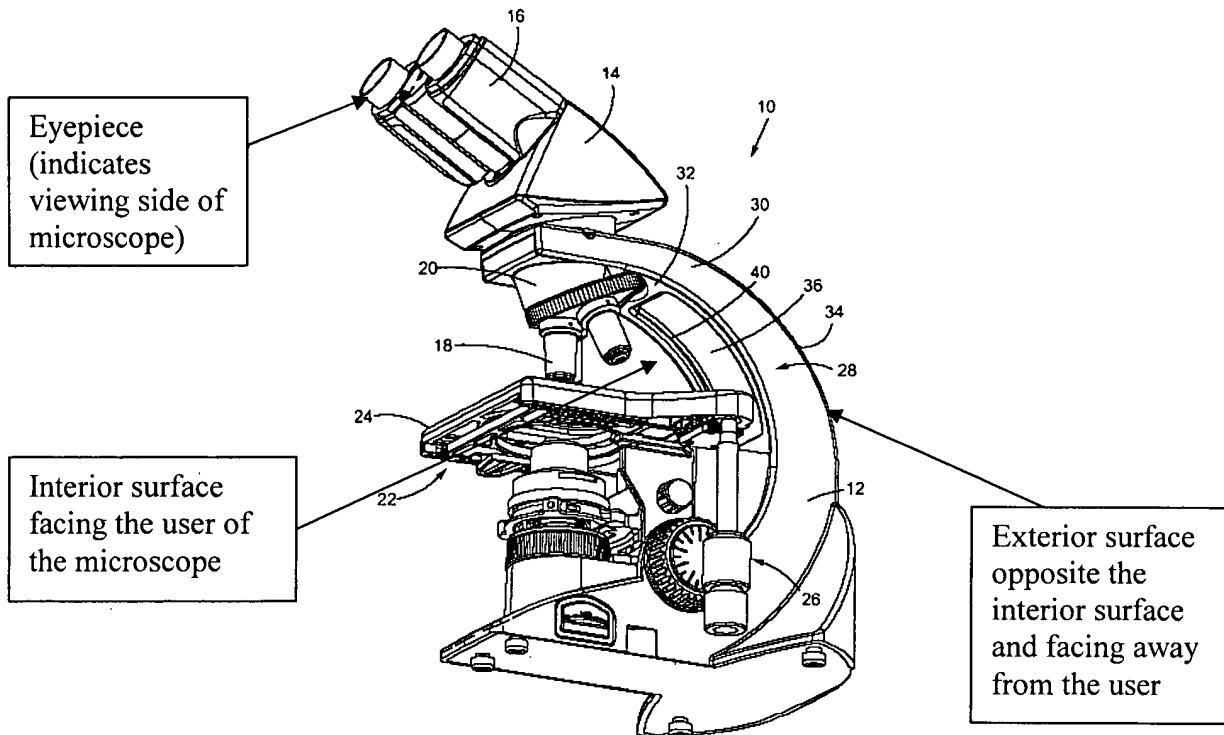


Fig. 1

An instant invention microscope

In order to establish a *prima facie* case of obviousness, the references alone or in combination must teach or suggest all the limitations of Applicants' claimed invention. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Thus, as independent Claim 9 contains elements that are not disclosed in the cited references, *i.e.*, an interior surface proximate a user of the microscope and an exterior surface opposite said interior surface, it generally follows that Claim 9 is patentable over *Broadhurst et al.* in view of *DiResta* and *Ampel*. Dependent Claims 10-12 and 14 contain all of the limitations of independent Claim 9, due to their dependency therefrom. Therefore, since Claim 9 is patentable over *Broadhurst et al.* in view of *DiResta* and *Ampel*, due to the missing elements, it necessarily follows that Claims 10-12 and 14 are also patentable over *Broadhurst et al.* in view of *DiResta* and *Ampel*, due to their dependency from Claim 9.

As described *supra*, both *Broadhurst et al.* and *DiResta*, alone or in combination, fail to teach a microscope having a curved interior surface which is proximate a user of the microscope and a curved exterior surface opposite the curved interior surface. Additionally, *Ampel*, being

directed at a multipurpose probe, fails to teach a microscope having any interior or exterior surfaces. Contrarily, the embodiment of Applicants' invention recited in Claim 20 comprises a curved interior surface which "is intended to refer to that side of the microscope arm facing and closest an individual standing in front of the microscope so as to peer through the eyepieces," and a curved exterior surface which "is intended to refer to that side of the microscope arm facing away and furthest from the individual standing in front of the microscope as if to peer through the eyepieces." (See Paragraph [0018] of the instant application).

Thus, as independent Claim 20 contains elements that are not disclosed in the cited references, *i.e.*, a curved interior surface proximate a user of the microscope and a curved exterior surface opposite said curved interior surface, it generally follows that Claim 20 is patentable over *Broadhurst et al.* in view of *DiResta* and *Ampel*. Dependent Claims 21-25 and 27 contain all of the limitations of independent Claim 20, due to their dependency therefrom. Therefore, since Claim 20 is patentable over *Broadhurst et al.* in view of *DiResta* and *Ampel*, due to the missing elements, it necessarily follows that Claims 21-25 and 27 are also patentable over *Broadhurst et al.* in view of *DiResta* and *Ampel*, due to their dependency from Claim 20.

Accordingly, withdrawal of the rejections of Claims 9-12, 14, 20-25 and 27 under 35 U.S.C. § 103(a) is appropriate and respectfully requested.

The Rejection of Claims 13 and 26 Under 35 U.S.C. § 103(a)

Claims 13 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Broadhurst et al.* in view of *DiResta* and *Ampel* as applied to Claims 9 and 20 above, and further in view of United States Patent No. 5,406,731 (*Stevens*). Applicants respectfully traverse this rejection and request reconsideration for the following reasons.

Applicants courteously assert that as described *supra*, *Broadhurst et al.*, *DiResta* and *Ampel*, alone or in combination, fail to teach a microscope having an interior surface which is proximate a user of the microscope and an exterior surface opposite the interior surface. Similarly, *Stevens*, being directed at a handgun of improved ergonomic construction, also fails to teach a microscope having any interior or exterior surfaces. In like fashion, *Broadhurst et al.*, *DiResta* and *Ampel*, alone or in combination, fail to teach a microscope having a curved interior surface which is proximate a user of the microscope and a curved exterior surface opposite the

curved interior surface. And again, *Stevens*, being directed at a handgun of improved ergonomic construction, also fails to teach a microscope having any curved interior or exterior surfaces.

As set forth above, in order to establish a *prima facie* case of obviousness, the references alone or in combination must teach or suggest all the limitations of Applicants' claimed invention. *In re Vaeck*, 947 F.2d 488. Thus, as independent Claim 9 contains elements that are not disclosed in the cited references, *i.e.*, an interior surface proximate a user of the microscope and an exterior surface opposite said interior surface, it generally follows that Claim 9 is patentable over *Broadhurst et al.* in view of *DiResta* and *Ampel* and further in view of *Stevens*. Dependent Claim 13 contains all of the limitations of independent Claim 9, due to its dependency therefrom. Therefore, since Claim 9 is patentable over *Broadhurst et al.* in view of *DiResta* and *Ampel* and further in view of *Stevens*, due to the missing elements, it necessarily follows that Claim 13 is also patentable over *Broadhurst et al.* in view of *DiResta* and *Ampel* and further in view of *Stevens*, due to its dependency from Claim 9.

Additionally, as independent Claim 20 contains elements that are not disclosed in the cited references, *i.e.*, a curved interior surface proximate a user of the microscope and a curved exterior surface opposite said curved interior surface, it generally follows that Claim 20 is patentable over *Broadhurst et al.* in view of *DiResta* and *Ampel* and further in view of *Stevens*. Dependent Claim 26 contains all of the limitations of independent Claim 20, due to its dependency therefrom. Therefore, since Claim 20 is patentable over *Broadhurst et al.* in view of *DiResta* and *Ampel* and further in view of *Stevens*, due to the missing elements, it necessarily follows that Claim 26 is also patentable over *Broadhurst et al.* in view of *DiResta* and *Ampel* and further in view of *Stevens*, due to its dependency from Claim 20.

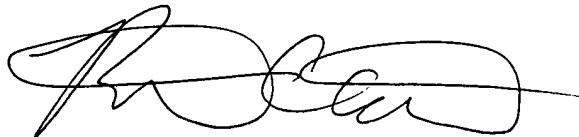
Accordingly, withdrawal of the rejections of Claims 13 and 26 under 35 U.S.C. § 103(a) is appropriate and respectfully requested.

Appl. No. 10/811,348
Amdt. Dated Jan. 24, 2007
Reply to Office Action of Sept. 29, 2006

Conclusion

Applicants respectfully submit that the present application is in condition for allowance, which action is courteously requested. The Examiner is invited and encouraged to contact the undersigned agent of record if such contact will facilitate an efficient examination and allowance of the application.

Respectfully yours,



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